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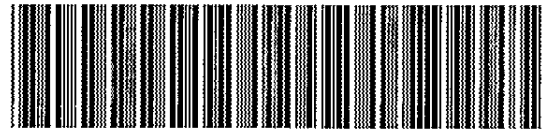
(Business Entity Name)

(Document Number)

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Special Instructions to Filing Officer:

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*Amended
Restated*

RECEIVED
DECEMBER 27
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

FILED
02 DEC 10 PM 3:15
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

*ADF
12/10/02*

CT CORPORATION

December 10, 2002

Secretary of State, Florida
409 East Gaines Street
Tallahassee FL 32399

Re: Order #: 5739144 SO
Customer Reference 1: 28804
Customer Reference 2: 0048.0

Dear Secretary of State, Florida:

Please file the attached:

Transit Group, Inc. (FL)
Misc - Domestic Corporate Filing - Amended & Restated Articles
Florida

Please return two (2) certified copies and one (1) good standing certificate along with regular evidence.

Enclosed please find a check for the requisite fees. Please return evidence of filing(s) to my attention.

If for any reason the enclosed cannot be filed upon receipt, please contact me immediately at (850) 222-1092. Thank you very much for your help.

Sincerely,

Jeffrey J Netherton
Sr. Fulfillment Specialist
Jeff_Netherton@cch-lis.com

660 East Jefferson Street
Tallahassee, FL 32301
Tel. 850 222 1092
Fax 850 222 7615

SECOND AMENDED AND RESTATED
ARTICLES OF INCORPORATION
OF
TRANSIT GROUP, INC.

FILED
02 DEC 10 PM 3:15
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

Transit Group, Inc., a corporation organized and existing under and by virtue of the provisions of the Florida Business Corporation Act (the "Corporation"), pursuant to Section 607.1008 of the Florida Business Corporation Act, hereby amends and restates its First Amended and Restated Articles of Incorporation to read as follows:

FIRST: That the name of this Corporation is Transit Group, Inc., and that this Corporation was originally incorporated pursuant to the Florida Business Corporation Act on August 28, 1985.

SECOND: That the United States Bankruptcy Court for the Middle District of Florida (the "Bankruptcy Court") acting with proper jurisdiction in the matter titled *In re Transit Group, Inc.*, Case No. 01-12820-6J1, has ordered, pursuant to the Debtors' Amended Joint Plan of Reorganization dated September 3, 2002, as modified and confirmed by Order entered November 27, 2002, that the Corporation amend and restate the First Amended and Restated Articles of Incorporation, including the Certificate of Designations of the Series A Convertible Preferred Stock and the Certificate of Designations of the Series B Convertible Preferred Stock of the Corporation (collectively, the "Certificates of Designations"), and has designated the appropriate officers of this Corporation, acting with the approval of the Bankruptcy Court, to file said amendment and restatement with the Secretary of State of the State of Florida.

RESOLVED, that the First Amended and Restated Articles of Incorporation, including the Certificates of Designations, of the Corporation be amended and restated in the entirety as follows:

Article I. Name

The name of this Corporation is TRANSIT GROUP, INC. (the "Corporation").

Article II. Purpose

The nature of the business or purposes to be conducted or promoted by the Corporation is to engage in any and all lawful acts or activities for which corporations may be organized under the Florida Business Corporation Act as now or hereinafter in force. The Corporation shall possess and exercise all of the powers and privileges granted by the Florida Business Corporation Act, by any other law or by these Articles, together with all such powers and privileges incidental thereto as may be necessary or convenient to the conduct, promotion or attainment of the purposes of the Corporation.

Article III. Stock

A. This Corporation is authorized to issue two classes of stock to be designated, respectively, "Common Stock" and "Preferred Stock." The total number of shares which the Corporation is authorized to issue is One Hundred Ten Thousand Five Hundred (110,500) shares, of which One Hundred Five Thousand (105,000) shares are Common Stock, \$0.001 par value per share, and Five Thousand Five Hundred (5,500) shares are Preferred Stock, \$0.001 par value per share. The rights and preferences of all outstanding shares of Common Stock shall be identical. The holders of outstanding shares of Common Stock shall have the right to vote on all matters submitted to a vote of the stockholders of the Corporation, on the basis of one vote per share of Common Stock owned.

B. Two Thousand (2,000) shares of the authorized shares of Preferred Stock have been and are hereby designated "Series AA Convertible Preferred Stock" (the "Series AA Preferred Stock"), Three Thousand (3,000) shares of the authorized shares of Preferred Stock have been and are hereby designated "Series BB Convertible Preferred Stock" (the "Series BB Preferred Stock"), and Five Hundred (500) shares of the authorized shares of Preferred Stock have been and are hereby designated "Series CC Preferred Stock" (the "Series CC Preferred Stock"). The rights, preferences, privileges, restrictions and other matters relating to the Series AA Preferred Stock, the Series BB Preferred Stock, and the Series CC Preferred Stock are set forth in subsections B.1 through B.5 hereof.

1. Definitions. As used in these Articles, the following terms have respective meanings set forth below:

"Affiliate" means, with respect to any Person, any other Person directly or indirectly controlling or controlled by or under direct or indirect common control with such Person. For purposes of this definition, "control" when used with respect to any Person means the power to direct the management and policies of such Person, directly or indirectly, whether through the ownership of voting securities, by contract, or otherwise.

"Base Price" means, individually or collectively, as the context may require, the Series AA Base Price and/or the Series BB Base Price.

"Board of Directors" means the board of directors of the Corporation.

"Capital Stock" means the Corporation's capital stock, including, without limitation, the Common Stock, the Series AA Preferred Stock, the Series BB Preferred Stock, and the Series CC Preferred Stock.

"Conversion Price" means, individually or collectively, as the context may require, the Series AA Conversion Price and/or the Series BB Conversion Price.

"Current FMV" means, as of the applicable determination date, the greatest of:

(i) the net book value per share of the Common Stock, as determined in accordance with generally accepted accounting principles, consistently applied;

(ii) the then-current fair market value of one (1) share of Common Stock, as mutually agreed upon by a majority of the Independent Directors and the holders of at least sixty percent (60%) of the outstanding Preferred Stock (voting together as a single class); or

(iii) (A) if the Common Stock is listed on a national securities exchange or the NASDAQ National Market System, the average of the high and low sales prices of the Common Stock for the thirty (30) trading days immediately preceding the date of valuation, or (B) if the Common Stock is traded in the over-the-counter market, the average closing bid price for the Common Stock for the thirty (30) trading days immediately preceding the date of valuation, as reported by the National Quotations Bureau, Inc.

The Current FMV shall be determined without discount for liquidity, minority interests, or other similar factors.

“Dividend Trigger Event” means the Qualified Initial Public Offering or any Liquidation Event.

“Independent Director” means a director of the Corporation who is not (i) an officer, employee, or holder of more than five percent (5%) of the outstanding voting securities of the Corporation, (ii) an officer, employee, or holder of more than five percent (5%) of the outstanding voting securities of any Affiliate of the Corporation, (iii) a director, officer, employee, agent, partner, manager, member, or holder of more than five percent (5%) of the outstanding voting securities of any Person that provides, or receives, goods and/or services to, or from, the Corporation (including, without limitation, any vendor, consultant, or professional), if, during any of the three preceding years, the total amount paid by the Corporation to, or received by the Corporation from, such Person for such goods and/or services exceeded Fifty Thousand Dollars (\$50,000.00); or (iv) a family member or relative of any individual described in clause (i), clause (ii), or clause (iii) above.

“Junior Stock” means the Common Stock and/or any other class or series of the Capital Stock ranking junior to the Preferred Stock.

“Liquidation Event” means (i) the voluntary or involuntary dissolution, liquidation or winding up of the affairs of the Corporation; (ii) the commencement by the Corporation of a voluntary case under the federal bankruptcy laws or any other applicable federal or state bankruptcy, insolvency or similar law, which has not been withdrawn, dismissed or vacated within thirty (30) days of being commenced, the consent to the entry of an order for relief in an involuntary case under such law or to the appointment of a receiver, liquidator, assignee, custodian, trustee, sequestrator (or other similar official) of the Corporation or of any substantial part of its property, the making of an assignment by the Corporation for the benefit of its creditors, the admission in writing by the Corporation of its inability to pay its debts generally as

they become due, if a decree or order for relief in respect of the Corporation shall be entered by a court having jurisdiction in the premises in an involuntary case under the federal bankruptcy laws or any other applicable federal or state bankruptcy, insolvency or similar law, or the appointment of a receiver, liquidator, assignee, custodian, trustee, sequestrator (or other similar official) of the Corporation or of any substantial part of its property; (iii) a sale of all or substantially all of the Corporation's assets; (iv) any merger, consolidation, or other transaction in which the holders of the Corporation's outstanding voting securities immediately prior to such transaction own, immediately after such transaction, securities representing less than sixty percent (60%) of the voting power of the corporation or other entity surviving such transaction, or (v) any other transaction in which substantially all control of the Corporation or its property is transferred to a third party.

"Liquidation Price" means, individually or collectively, as the context may require, the Series AA Liquidation Price, the Series BB Liquidation Price, and/or the Series CC Liquidation Price.

"Person" means an individual, partnership, corporation, limited liability company, trust, unincorporated organization, joint venture, government or agency, political subdivision thereof, or any other entity of any kind.

"Preferred Stock" means, collectively, the Series AA Preferred Stock, the Series BB Preferred Stock, and the Series CC Preferred Stock.

"Qualified Initial Public Offering" means a consummated firmly underwritten public offering of the Common Stock on Form S-1 or any similar form of registration statement adopted by the Securities and Exchange Commission from and after the date hereof (other than a registration relating either to the sale of securities to employees of the Corporation pursuant to a stock option, stock purchase or similar plan, or a transaction under Rule 145 promulgated under the Securities Act, or a registration on any form which does not include substantially the same information as would be required to be included in Form S-1), filed with the Securities and Exchange Commission under the Securities Act, with proceeds to the Corporation (after payment of expenses of the offering, including underwriters' discounts and commissions) of at least Six Hundred Eighty Million Dollars (\$680,000,000.00).

"Recapitalization Event" means any stock split, stock dividend, recapitalization, reclassification, or other similar event.

"Securities Act" means the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder.

"Securities Purchase Agreement" means the Securities Purchase Agreement dated as of December 10, 2002 by and among the Corporation and the purchasers party thereto.

“Senior Preferred Stock” means, individually or collectively, as the context may require, the Series AA Preferred Stock and the Series BB Preferred Stock.

“Series AA Base Price” means \$6,375.21 per share of Series AA Preferred Stock.

“Series AA Liquidation Price” means \$6,375.21 per share of Series AA Preferred Stock, plus all accrued but unpaid dividends thereon (as adjusted for any Recapitalization Events).

“Series AA Security Agreement” means the Security Agreement dated as of December 10, 2002 by and between the Corporation, the holders of Series AA Preferred Stock, and the other parties thereto, as amended or supplemented from time to time.

“Series BB Base Price” means \$5,985.32 per share of Series BB Preferred Stock.

“Series BB Liquidation Price” means \$5,985.32 per share of Series BB Preferred Stock, plus all accrued but unpaid dividends thereon (as adjusted for any Recapitalization Events).

“Series BB Security Agreement” means the Security Agreement dated as of December 10, 2002 by and between the Corporation and the holders of Series BB Preferred Stock, as amended or supplemented from time to time.

“Series CC Liquidation Price” means \$6,823.64 per share of Series CC Preferred Stock (as adjusted for any Recapitalization Events).

“2002 Common Stock Warrants” has the meaning given to such term in the Securities Purchase Agreement.

2. Dividends.

(a) Dividend Rights. No dividends may be declared, set aside, or paid with respect to the Junior Stock (or any portion thereof) until all preferential dividends declared or accrued on all outstanding shares of each class or series of Senior Preferred Stock have been declared, set aside, and paid.

(b) Preferential Dividends. The holder of each then-outstanding share of Preferred Stock shall be entitled to receive, when, as and if declared by the Board of Directors, preferential dividends at an annual rate equal to three percent (3.0%) of the applicable Base Price per share (as adjusted for any Recapitalization Events). The Preferred Stock dividends shall be cumulative, whether or not declared, and shall accrue from the date of issuance of the applicable share of Preferred Stock.

If any cash dividends shall be declared or set aside for payment or paid on outstanding shares of the Preferred Stock in respect of any dividend period, the Corporation shall simultaneously declare and pay or set aside a sum sufficient for the payment in full of all arrearages in the payment of Preferred Stock dividends in respect of any previous or current period or periods, at the annual rate specified above.

All Preferred Stock dividends which shall have accrued but remain unpaid as of the date of any Dividend Trigger Event shall be paid in full in cash, out of funds legally available therefor, upon consummation of such Dividend Trigger Event, to the holders of record of the Preferred Stock immediately prior to the closing of such Dividend Trigger Event.

(c) [Intentionally Omitted]

(d) Record Date. The Board of Directors may fix a record date for the determination of holders of any class or series of Preferred Stock entitled to receive payment of a dividend declared thereon, which record date shall be not more than 30 days prior to the date fixed for the payment thereof (the "Date of Payment").

(e) Payment of Dividends. The Corporation shall pay to each holder of a class or series of Preferred Stock on the Date of Payment with respect to shares held by such holder any and all dividends which have been declared through such date with respect to such class or series of Preferred Stock.

(f) Distribution of Partial Dividend Payments. If at any time the Corporation pays less than the total amount of dividends then accrued with respect to any class or series of Preferred Stock, such payment shall be distributed among the holders of such class or series of Preferred Stock entitled to the payment of dividends at such time so that an equal amount shall be paid with respect to each such share of such class or series of Preferred Stock.

3. Liquidation. Upon the occurrence of a Liquidation Event, the funds and assets of the Corporation that may be legally distributed to the Corporation's stockholders (the "Available Funds and Assets") shall be distributed to stockholders in the following manner:

(a) Preferred Stock Liquidation Preference. The holders of shares of Preferred Stock then outstanding shall be entitled to be paid, out of the Available Funds and Assets, and prior and in preference to any payment or distribution (or any setting apart of any payment or distribution) of any Available Funds and Assets on any shares of Junior Stock, an amount per share equal to the applicable Liquidation Price. If, upon the occurrence of a Liquidation Event, the Available Funds and Assets shall be insufficient to permit the payment to the holders of Preferred Stock of their full preferential amount described in this Section 3(a), then all remaining Available Funds and Assets shall be distributed ratably among the holders of Preferred Stock in proportion to the preferential amount each such holder is otherwise entitled to receive.

(b) Remaining Assets. If there are any Available Funds and Assets remaining after the payment or distribution (or the setting aside for payment or distribution) to the holders of Preferred Stock of their full preferential amounts described in Section 3(a) above, then all such remaining Available Funds and Assets shall be distributed ratably among the holders of Common Stock.

(c) Notice of Liquidation. Written notice of any Liquidation Event, stating the payment date or dates when and the place or places where amounts distributable in such circumstances shall be payable, shall be given by first class mail, postage prepaid, not less than thirty (30) days prior to any payment date specified therein, to the holders of record of each class or series of Preferred Stock at their respective addresses as shall appear on the records of the Corporation.

(d) Security for Liquidation Preference. Payment of the aggregate Series AA Liquidation Price to the holders of Series AA Preferred Stock shall be secured by a first priority security interest in certain rolling stock of the Corporation (the "Series AA Collateral") as described in the Series AA Security Agreement. Payment of the aggregate Series BB Liquidation Price to the holders of Series BB Preferred Stock shall be secured by a first priority security interest in certain rolling stock of the Corporation (the "Series BB Collateral" and together with the Series AA Collateral, the "Collateral") as described in the Series BB Security Agreement. In the event of a default by the Corporation in the payment of the applicable Liquidation Price owing to the holders of Senior Preferred Stock as provided herein, the holders of Senior Preferred Stock shall have all of the rights and remedies of a secured creditor under the laws of the State of Florida with respect to the collateral in which such holders have a security interest (except that neither of such holders shall be entitled to a deficiency judgment against the Corporation if the value of the applicable Collateral securing the payment of the applicable Liquidation Price is less than the full amount of the applicable Liquidation Price), as more particularly set forth in the Series AA Security Agreement or the Series BB Security Agreement, as applicable.

(e) Noncash Distributions. If any of the assets of the Corporation are to be distributed other than in cash under this Section 3 or for any purpose, the value of the assets to be distributed to the holders of Preferred Stock will be the fair value thereof determined jointly by the Corporation and the holders of a majority of the then-outstanding Common Stock (on an as-converted basis); provided that if such parties are unable to reach agreement within a reasonable period of time, such fair value will be determined by an appraiser jointly selected by the Corporation and such holders. The Corporation shall, upon receipt of such appraiser's valuation, give prompt written notice to each holder of shares of Preferred Stock and Common Stock of the appraiser's valuation. The Corporation shall pay all costs, expenses, and fees of any such appraiser.

4. Voting Rights.

(a) Subject to the provisions of Section 4(b), Section 4(c), and Section 4(d) below, the holders of Preferred Stock shall have no voting rights and shall not vote with

holders of the Common Stock upon any matters submitted to a vote of stockholders, except those matters required to be submitted to a class or series vote pursuant to applicable law.

(b) Notwithstanding the provisions of Section 4(a) above, the Corporation shall not, without the consent of the holders of at least sixty percent (60%) of the outstanding shares of Series AA Preferred Stock (voting together as a separate class), given in person or by proxy, either in writing or by vote at a meeting called for that purpose at which the holders of Series AA Preferred Stock shall vote together as a separate class:

(i) alter or change the rights, preferences, privileges, or powers of the Series AA Preferred Stock adversely;

(ii) increase the number of authorized shares of Series AA Preferred Stock;

(iii) create or authorize the creation of, or increase the number of authorized shares of, any class or series of equity securities on a parity with or having preference over the Series AA Preferred Stock;

(iv) effect a reclassification, reorganization, or recapitalization of the Corporation's equity securities;

(v) purchase, redeem, or otherwise acquire for value any of the Corporation's equity or equity-linked securities, other than redemptions of the Common Stock issuable upon exercise of the 2002 Common Stock Warrants or repurchases from employees pursuant to repurchase rights in favor of the Corporation;

(vi) amend, modify, or waive any provision of these Articles or the Corporation's by-laws in any manner; or

(vii) increase or decrease the number of directors of the Corporation.

(c) Notwithstanding the provisions of Section 4(a) above, the Corporation shall not, without the consent of the holders of at least sixty percent (60%) of the outstanding shares of Series BB Preferred Stock (voting together as a separate class), given in person or by proxy, either in writing or by vote at a meeting called for that purpose at which the holders of Series BB Preferred Stock shall vote together as a separate class:

(i) alter or change the rights, preferences, privileges, or powers of the Series BB Preferred Stock adversely;

(ii) increase the number of authorized shares of Series BB Preferred Stock;

(iii) create or authorize the creation of, or increase the number of authorized shares of, any class or series of equity securities on a parity with or having preference over the Series BB Preferred Stock;

(iv) effect a reclassification, reorganization, or recapitalization of the Corporation's equity securities;

(v) purchase, redeem, or otherwise acquire for value any of the Corporation's equity or equity-linked securities, other than redemptions of the Common Stock issuable upon exercise of the 2002 Common Stock Warrants or repurchases from employees pursuant to repurchase rights in favor of the Corporation;

(vi) amend, modify, or waive any provision of these Articles or the Corporation's by-laws in any manner; or

(vii) increase or decrease the number of directors of the Corporation.

(d) Notwithstanding the provisions of Section 4(a) above, the Corporation shall not, without the consent of the holders of at least sixty percent (60%) of the outstanding shares of Series CC Preferred Stock (voting together as a separate class), given in person or by proxy, either in writing or by vote at a meeting called for that purpose at which the holders of Series CC Preferred Stock shall vote together as a separate class:

(i) alter or change the rights, preferences, privileges, or powers of the Series CC Preferred Stock adversely;

(ii) increase the number of authorized shares of Series CC Preferred Stock; or

(iii) create or authorize the creation of, or increase the number of authorized shares of, any class or series of equity securities having a liquidation preference that is senior to, or pari passu with, the liquidation preference of the Series CC Preferred Stock.

5. Conversion. The holders of shares of each class or series of Senior Preferred Stock shall have the right at any time and from time to time to convert such shares into shares of Common Stock, and the terms and conditions of such conversion, shall be as follows:

(a) Right to Convert.

(i) Each share of a class or series of Senior Preferred Stock shall be convertible, at the option of the holder thereof, at any time after the date of the issuance of such share (provided that upon liquidation of the Corporation, the right of conversion for any class or series of Senior Preferred Stock shall terminate as of the close of business on the day fixed for payment of the liquidation preference payable with respect to such class or series of

Senior Preferred Stock), at the office of the Corporation or any transfer agent for the Senior Preferred Stock or the Common Stock, into that number of fully paid and nonassessable shares of Common Stock determined in accordance with the provisions of Section 5(b) below. The Common Stock issuable upon conversion of the shares of each class or series of Senior Preferred Stock, when such Common Stock shall be issued in accordance with the terms hereof, are hereby declared to be and shall be duly authorized, validly issued, fully paid and nonassessable shares of Common Stock held by the holders thereof.

(ii) In order to convert shares of any class or series of Senior Preferred Stock into shares of Common Stock, the holder thereof shall surrender the certificate or certificates therefor, duly endorsed, at the office of the Corporation or to the transfer agent for the Senior Preferred Stock or the Common Stock, together with written notice to the Corporation stating that it elects to convert the same and setting forth the name or names in which the certificate or certificates for Common Stock should be issued, and the number of shares of such class or series of Senior Preferred Stock being converted.

(b) Conversion Ratios.

(i) Each outstanding share of Series AA Preferred Stock shall be convertible into the number of shares of Common Stock which results from dividing the Series AA Conversion Price per share in effect at the time into the Series AA Base Price.

(ii) Each outstanding share of Series BB Preferred Stock shall be convertible into the number of shares of Common Stock which results from dividing the Series BB Conversion Price per share in effect at the time into the Series BB Base Price.

(iii) No fractional shares of Common Stock shall be issued upon conversion of any class or series of Senior Preferred Stock. If more than one share of any class or series of Senior Preferred Stock is to be converted at one time by the same stockholder, the number of full shares issuable upon such conversion shall be computed on the basis of the aggregate amount of the shares to be converted. Instead of any fractional shares of Common Stock which would otherwise be issuable upon conversion of any shares of a class or series of Senior Preferred Stock, the Corporation will pay a cash adjustment in respect of such fractional interest in an amount equal to the same fraction of the Current FMV at the close of business on the day of conversion which such fractional share of such class or series of Senior Preferred Stock would be convertible into on such date.

(c) Initial Conversion Prices.

(i) The "Series AA Conversion Price" initially shall be \$6,375.21 per share of Series AA Preferred Stock. The Series AA Conversion Price shall be subject to adjustment from time to time as provided herein.

(ii) The "Series BB Conversion Price" initially shall be \$5,985.32 per share of Series BB Preferred Stock. The Series BB Conversion Price shall be subject to adjustment from time to time as provided herein.

(d) No Series C Conversion Rights. For the avoidance of doubt, the holders of Series CC Preferred Stock shall not have any right to convert their shares of Series CC Preferred Stock into shares of Common Stock hereunder.

(e) Automatic Conversion.

(i) Upon the closing of a Qualified Initial Public Offering, each share of a class or series of Senior Preferred Stock shall automatically be converted into that number of fully paid and nonassessable shares of Common Stock as determined in accordance with Section 5(b) above. In the event of the automatic conversion of the Senior Preferred Stock upon a Qualified Initial Public Offering as aforesaid, the person(s) entitled to receive the Common Stock issuable upon conversion of the applicable class or series of Senior Preferred Stock shall not be deemed to have converted such Senior Preferred Stock until immediately prior to the closing of such sale of securities.

(ii) Each share of a class or series of Senior Preferred Stock automatically shall be converted into shares of Common Stock, at the then effective Conversion Price for such class or series of Senior Preferred Stock, without any further action on the part of the Corporation or the holders of such shares of such class or series of Senior Preferred Stock, upon the election of the holders of at least sixty percent (60%) of the outstanding shares of such class or series of Senior Preferred Stock (voting together as a separate class) to convert such shares into Common Stock.

(iii) Any transaction, event, or occurrence described in Section 5(e)(i) or Section 5(e)(ii) above shall be governed by the provisions of Section 5(f) below.

(f) Issuance of New Certificates. The Corporation shall, as soon as practicable after the surrender of the certificate or certificates evidencing shares of a class or series of Senior Preferred Stock for conversion at the office of the Corporation or the transfer agent for the Senior Preferred Stock or the Common Stock, issue to each holder of such shares, or its nominee or nominees, a certificate or certificates evidencing the number of shares of Common Stock (and any other securities and property) to which it shall be entitled and, in the event that only a part of the shares evidenced by such certificate or certificates are converted, a certificate evidencing the number of shares of such class or series of Senior Preferred Stock which are not converted. Such conversion shall be deemed to have been made immediately prior to the close of business on the date of such surrender of the shares of Senior Preferred Stock to be converted, and the Person or Persons entitled to receive the shares of Common Stock issuable upon such conversion shall be treated for all purposes as the record holder or holders of such shares of Common Stock at such date and shall, with respect to such shares, have only those rights of a holder of Common Stock of the Corporation. At the time the conversion is deemed to have occurred, the rights of the holder of the shares of Senior Preferred Stock being converted

shall cease except for the right to receive shares of Common Stock and accrued but unpaid dividends in accordance herewith. By way of example without limitation, at the time the conversion is deemed to have occurred, the applicable Collateral securing the payment of the applicable Liquidation Price shall be released and the rights thereon shall revert to the Corporation and the security interests granted with respect to the applicable Collateral shall terminate.

(g) Adjustment for Stock Splits and Combinations. If outstanding shares of the Common Stock shall be subdivided into a greater number of shares, or a dividend or other distribution in Common Stock or other securities of the Corporation convertible into or exchangeable for Common Stock (in which latter event the number of shares of Common Stock issuable upon the conversion or exchange of such securities shall be deemed to have been distributed), shall be paid in respect of the Common Stock, the Conversion Price for each class or series of Senior Preferred Stock in effect immediately prior to such subdivision or at the record date of such dividend shall, simultaneously with the effectiveness of such subdivision or immediately after the record date of such dividend, be proportionately reduced, and conversely, if outstanding shares of the Common Stock of the Corporation shall be combined into a smaller number of shares, the Conversion Price for each class or series of Senior Preferred Stock in effect immediately prior to such combination shall simultaneously with the effectiveness of such combination, be proportionately increased, so that, in each case, each holder of shares of a class or series of Senior Preferred Stock shall have the right to convert its shares of Senior Preferred Stock into the number of shares of Common Stock which it would have owned after the event had such shares of such class or series of Senior Preferred Stock been converted immediately before the happening of such event. Any adjustment to the Conversion Price for a class or series of Senior Preferred Stock under this Section 5(g) shall become effective at the close of business on the date the subdivision or combination referred to herein becomes effective.

(h) Adjustments for Other Dividends. In the event the Corporation at any time, or from time to time, shall make or issue, or fix a record date for the determination of holders of Common Stock entitled to receive, a dividend or other distribution payable in securities of the Corporation other than shares of Common Stock or securities convertible into or exchangeable for Common Stock, then and in each such event, provision shall be made so that the holders of each class or series of Senior Preferred Stock shall receive upon conversion thereof, in addition to the number of shares of Common Stock receivable thereupon, the amount of securities of the Corporation which they would have received had their Senior Preferred Stock been converted into Common Stock on the date of such event and had thereafter, during the period from the date of such event to and including the date of conversion, retained such securities receivable by them as aforesaid during such period, giving application to all adjustments called for during such period under this Section 5 with respect to the rights of the holders of each class or series of Senior Preferred Stock.

(i) Reorganizations, Mergers, Consolidations or Reclassifications. In the event of any capital reorganization, any reclassification of the Common Stock (other than a change in par value), the consolidation or merger of the Corporation with or into another Person, or the sale of all or substantially all of the Corporation's assets to another Person, in each case

not constituting a Liquidation Event (collectively referred to hereinafter as a "Reorganization"), the holders of each class or series of Senior Preferred Stock shall thereafter be entitled to receive, and provision shall be made therefor in any agreement relating to a Reorganization, upon conversion of shares of such class or series of Senior Preferred Stock, the kind and number of shares of Common Stock or other securities or property (including cash) of the Corporation, or other Person resulting from such consolidation, purchasing such assets, or surviving such merger to which a holder of the number of shares of the Common Stock of the Corporation into which each class or series of Senior Preferred Stock could have been converted immediately prior to such Reorganization (based on the Conversion Price for each class or series of Senior Preferred Stock then in effect) would have been entitled to receive with respect to such Reorganization; and in any such case appropriate adjustment shall be made in the application of the provisions herein set forth with respect to the rights and interests thereafter of the holders of the Senior Preferred Stock, to the end that the provisions set forth herein (including the specified changes and other adjustments to the Conversion Price for each class or series of Senior Preferred Stock) shall thereafter be applicable, as nearly as reasonably may be, in relation to any shares, other securities or property thereafter receivable upon conversion of shares of a class or series of Senior Preferred Stock. The Corporation will not effect any Reorganization unless, prior to the consummation thereof, the successor Person (if other than the Corporation) resulting from such consolidation or merger, or purchasing such assets, shall assume by written instrument mailed or delivered to the holders of the Senior Preferred Stock at the last address of each such holder appearing on the books of the Corporation, the obligation to deliver to each such holder such shares of stock, securities or assets as, in accordance with the foregoing provisions, such holder may be entitled to purchase. The provisions of this Section 5(i) shall similarly apply to successive Reorganizations.

(j) Certain Additional Conversion Price Adjustments.

(i) If, at any time or from time to time, subject to Section 5(k)(viii) below, the Corporation shall issue or sell, or is, in accordance with the provisions of this Section 5, deemed to have issued or sold, any shares of Common Stock (other than as a dividend or other distribution on any class of capital stock as provided in Section 5(h) above and other than as a subdivision or combination of shares of Common Stock as provided in Section 5(g) above) for no consideration or for a consideration per share less than the Conversion Price for a class or series of Senior Preferred Stock (the "Affected Conversion Price") which is in effect immediately prior to the time of such issuance or sale (such issuance or sale shall be referred to as a "Dilutive Issuance"), then, forthwith upon the Dilutive Issuance, the Affected Conversion Price shall be adjusted by multiplying such Affected Conversion Price in effect immediately prior to the Dilutive Issuance by the following fraction:

$$\frac{X + Y}{X + Z}$$

Where:

- “X” equals the sum of (i) the number of shares of Common Stock issued and outstanding immediately prior to the Dilutive Issuance, (ii) the number of shares of Common Stock issuable upon conversion of any shares of Senior Preferred Stock, and any other class or series of convertible securities of the Corporation issued and outstanding immediately prior to the Dilutive Issuance and (iii) the number of shares of Common Stock issuable upon the exercise of any options or warrants, issued and outstanding immediately prior to the Dilutive Issuance, to purchase shares of the Common Stock or securities convertible into Common Stock;
- “Y” equals the number of shares of Common Stock which the aggregate consideration received by the Corporation in the Dilutive Issuance would purchase at the applicable Conversion Price in effect immediately prior to the Dilutive Issuance; and
- “Z” equals the number of shares of Common Stock issued or deemed issued in the Dilutive Issuance.

(ii) If, at any time or from time to time, subject to Section 5(k)(viii) below, the Corporation shall issue or sell, or is, in accordance with the provisions of this Section 5, deemed to have issued or sold, any shares of Common Stock (other than as a dividend or other distribution on any class of capital stock as provided in Section 5(h) above and other than as a subdivision or combination of shares of Common Stock as provided in Section 5(g) above) at a price per share less than the Current FMV as of the date of issuance (or deemed issuance) of such shares, then, in each such case, the applicable Conversion Price shall be adjusted downward (but not upward) so that the holder of each share of Senior Preferred Stock shall be entitled to receive, upon the conversion thereof, the number of shares of Common Stock determined by multiplying (A) the applicable Conversion Price in effect immediately prior to such issuance (or deemed issuance) by (B) a fraction, the numerator of which shall be the sum of (x) the number of shares of Common Stock outstanding (on a fully diluted basis) immediately prior to such issuance (or deemed issuance) and (y) the number of shares of Common Stock which the aggregate consideration received by the Corporation for the total number of shares of Common Stock issued (or deemed issued) would purchase at such Current FMV, and the denominator of which shall be the sum of (1) the number of shares of Common Stock outstanding (on a fully diluted basis) immediately prior to such issuance (or deemed issuance) and (2) the number of additional shares of Common Stock issued (or deemed issued).

(iii) If the provisions of Section 5(j)(i) and Section 5(j)(ii) apply to a particular issuance or deemed issuance, then, in each such case, the adjustment that results in the lower Conversion Price shall be used.

(k) Certain Operating Rules.

(i) Issuance of Rights or Options. If, at any time, subject to Section 5(k)(viii) below, the Corporation shall in any manner grant (whether directly or by assumption in a merger or otherwise) any warrants or other rights to subscribe for or to purchase, or any options for the purchase of, Common Stock or any stock or security convertible into or exchangeable for Common Stock (such warrants, rights or options being called "Options" and such convertible or exchangeable stock or securities being called "Convertible Securities"), whether or not such Options or the right to convert or exchange any such Convertible Securities are immediately exercisable, and the effective price per share for which Common Stock is issuable upon the exercise of such Options or upon the conversion or exchange of such Convertible Securities (determined by dividing (x) the total amount, if any, received or receivable by the Corporation as consideration for the granting of such Options, plus the minimum aggregate amount of additional consideration payable to the Corporation upon the exercise of all such Options, plus, in the case of such Options which relate to Convertible Securities, the minimum aggregate amount of additional consideration, if any, payable upon the issue or sale of such Convertible Securities and upon the conversion or exchange thereof, by (y) the total maximum number of shares of Common Stock issuable upon the exercise of all such Options or upon the conversion or exchange of all such Convertible Securities issuable upon the exercise of such Options) shall be less than the Conversion Price for any class or series of Senior Preferred Stock in effect immediately prior to the time of the granting of such Options or Convertible Securities, and/or the Current FMV, then, in any such case, the total maximum number of shares of Common Stock issuable upon the exercise of such Options or upon conversion or exchange of the total maximum amount of such Convertible Securities issuable upon the exercise of such Options shall be deemed to have been issued for such effective price per share as of the date of granting of such Options or the issuance of such Convertible Securities and thereafter shall be deemed to be outstanding. Except as otherwise provided in Section 5(k)(iii) hereof, no adjustment of the Conversion Price of a class or series of Senior Preferred Stock shall be made upon the actual issue of such Common Stock or of such Convertible Securities upon exercise of such Options or upon the actual issue of such Common Stock upon conversion or exchange of such Convertible Securities.

(ii) Issuance of Convertible Securities. If, at any time, subject to Section 5(k)(viii) below, the Corporation shall in any manner issue (whether directly or by assumption in a merger or otherwise) or sell any Convertible Securities, whether or not the rights to exchange or convert any such Convertible Securities are immediately exercisable, and the effective price per share for which Common Stock is issuable upon such conversion or exchange (determined by dividing (x) the total amount received or receivable by the Corporation as consideration for the issue or sale of such Convertible Securities, plus the minimum aggregate amount of additional consideration, if any, payable to the Corporation upon the conversion or exchange thereof, by (y) the total maximum number of shares of Common Stock issuable upon the conversion or exchange of all such Convertible Securities) shall be less than the Conversion Price for any class or series of Senior Preferred Stock in effect immediately prior to the time of such issue or sale, and/or the Current FMV, then, in any such case, the total maximum number of shares of Common Stock issuable upon conversion or exchange of all such Convertible Securities shall be deemed to have been issued for such effective price per share as of the date of the issue or sale of such Convertible Securities and thereafter shall be deemed to be outstanding,

provided that (I) except as otherwise provided in Section 5(k)(iii) hereof, no adjustment of the Conversion Price of a class or series of Senior Preferred Stock shall be made upon the actual issue of such Common Stock upon conversion or exchange of such Convertible Securities and (II) if any such issue or sale of such Convertible Securities is made upon exercise of any Options to purchase any of the Convertible Securities for which adjustments of the Conversion Price for a class or series of Senior Preferred Stock have been or are to be made pursuant to other provisions of this Section 5, no further adjustment of the Conversion Price for such class or series of Senior Preferred Stock shall be made by reason of such issue or sale.

(iii) Change in Option Price or Conversion Rate. Upon the happening of any of the following events, namely, if the purchase price provided for in any Option referred to in Section 5(k)(i) hereof, the additional consideration, if any, payable upon the conversion or exchange of any Convertible Securities referred to in Sections 5(k)(i) or 5(k)(ii) hereof, or the rate at which Convertible Securities referred to in Sections 5(k)(i) or 5(k)(ii) hereof are convertible into or exchangeable for Common Stock shall change at any time (including, but not limited to, changes under or by reason of provisions designed to protect against dilution), the Conversion Price in effect for each class or series of Senior Preferred Stock at the time of such event shall forthwith be readjusted to the Conversion Price for such class or series of Senior Preferred Stock which would have been in effect at such time had such Options or Convertible Securities still outstanding provided for such changed purchase price, additional consideration or conversion rate, as the case may be, at the time initially granted, issued or sold, but only if as a result of such adjustment the Conversion Price for such class or series of Senior Preferred Stock then in effect hereunder is thereby reduced. On the expiration of any such Option or the termination of any such right to convert or exchange such Convertible Securities, the Conversion Price for such class or series of Senior Preferred Stock then in effect under this Section 5 shall forthwith be increased to the Conversion Price which would have been in effect at the time of such expiration or termination had such Option or Convertible Securities, to the extent outstanding immediately prior to such expiration or termination, never been issued.

(iv) [Intentionally Omitted]

(v) Consideration for Stock. In case any shares of Common Stock, Options or Convertible Securities shall be issued or sold for cash, the consideration received therefor shall be deemed to be the amount received by the Corporation therefor, net of any compensation, commissions (including, without limitation, underwriting commissions), discounts, or expenses paid or incurred by the Corporation in connection with such issuance and/or sale. In case any shares of Common Stock, Options or Convertible Securities shall be issued or sold for a consideration other than cash, the amount of the consideration other than cash received by the Corporation shall be deemed to be the fair value of such consideration as determined in good faith by the Board of Directors, net of any compensation, commissions (including, without limitation, underwriting commissions), discounts, or expenses paid or incurred by the Corporation in connection with such issuance and/or sale. In case any Options shall be issued in connection with the issue and sale of other securities of the Corporation, together comprising one integral transaction in which no specific consideration is allocated to

such Options by the parties thereto, such Options shall be deemed to have been issued for such consideration as determined in good faith by the Board of Directors.

(vi) Record Date. In case the Corporation shall take a record of the holders of its Common Stock for the purpose of entitling them (x) to receive a dividend or other distribution payable in Common Stock, Options or Convertible Securities or (y) to subscribe for or purchase Common Stock, Options or Convertible Securities, then such record date shall be deemed (but only to the extent that one of the preceding events actually occurs) to be the date of the issue or sale of the shares of Common Stock deemed to have been issued or sold upon the declaration of such dividend or the making of such other distribution or the date of the granting of such right of subscription or purchase, as the case may be.

(vii) Authorized but Unissued Shares. The disposition of any shares of Common Stock owned or held by or for the account of the Corporation shall be considered an issue or sale of Common Stock for the purpose of this Section 5.

(viii) Certain Issuances of Common Stock Excepted. Anything to the contrary notwithstanding, the Corporation shall not be required to make any adjustment to the Conversion Price of any class or series of Senior Preferred Stock in the case of:

(A) the conversion of any shares of any class or series of Senior Preferred Stock into shares of Common Stock; or

(B) the exercise or conversion of any options, warrants, or convertible securities issued and outstanding as of December 10, 2002 (including, without limitation, the 2002 Common Stock Warrants).

(ix) Calculation of Adjustment to Conversion Price. The calculation by the Board of Directors of any adjustment to the Conversion Price for any class or series of Senior Preferred Stock, made in good faith and in accordance with the foregoing provisions of this Section 5, shall, in the absence of manifest error, be final and binding on all stockholders of the Corporation.

(x) Waiver of Adjustment of Conversion Price. Notwithstanding anything herein to the contrary, the operation of, and any adjustment of the Conversion Price for any class or series of Senior Preferred Stock, pursuant to this Section 5 may be waived by the holders of at least sixty percent (60%) of the outstanding shares of such class or series of Senior Preferred Stock, either prospectively or retroactively and either generally or in a particular instance by a writing executed by the registered holder(s) of such shares. Any waiver pursuant to this Section 5(k)(x) shall bind all current and future holders of shares of such class or series of Senior Preferred Stock.

(l) Notice of Adjustment. Upon any adjustment of the Conversion Price for any class or series of Senior Preferred Stock or the number of shares of Common Stock into which shares of any class or series of Senior Preferred Stock shall be convertible, then and in

each such case the Corporation shall give written notice thereof, by first class mail, postage prepaid, addressed to each holder of shares of Senior Preferred Stock and Common Stock at the address of such holder as shown on the books of the Corporation, which notice shall state the applicable Conversion Price adjustment or the adjusted number of shares of Common Stock into which the applicable class or series of Senior Preferred Stock shall be convertible, as applicable, resulting from such adjustment and setting forth in reasonable detail the method upon which such calculation is based.

(m) Notices of Record Date. In the event the Corporation shall propose to take any action of the type or types requiring an adjustment to the Conversion Price of any class or series of Senior Preferred Stock or the number of shares or character of any class or series of Senior Preferred Stock as set forth herein, the Corporation shall give notice to the holders of the shares of such class or series of Senior Preferred Stock in the manner set forth in Section 5(k) above, which notice shall specify the record date, if any, with respect to any such action and the date on which such action is to take place. Such notice shall also set forth such facts with respect thereto as shall be reasonably necessary to indicate the effect of such action (to the extent such effect may be known at the date of such notice) on the Conversion Price for such class or series of Senior Preferred Stock and the number, kind or class of shares or other securities or property which shall be deliverable upon the occurrence of such action or deliverable upon the conversion of shares of such class or series of Senior Preferred Stock. In the case of any action which would require the fixing of a record date, such notice shall be given at least 20 days prior to the date so fixed, and in case of all other action, such notice shall be given at least 30 days prior to the taking of such proposed action.

(n) Reservation of Stock Issuable Upon Conversion. The Corporation shall at all times reserve and keep available out of its authorized but unissued shares of Common Stock, solely for the purpose of effecting the conversion of the shares of Senior Preferred Stock, such number of its shares of Common Stock as shall from time to time be sufficient to effect a conversion of all outstanding shares of each class or series of Senior Preferred Stock, and if at any time the number of authorized but unissued shares of Common Stock shall not be sufficient to effect the conversion of all then outstanding shares of each class or series of Senior Preferred Stock, then the Corporation shall promptly seek such corporate action as may, in the opinion of its counsel, be necessary to increase its authorized but unissued shares of Common Stock to such number of shares as shall be sufficient for such purpose. In the event of the consolidation or merger of the Corporation with another corporation where the Corporation is not the surviving corporation, effective provisions shall be made in the certificate or articles of incorporation, merger, or consolidation, or otherwise of the surviving corporation so that such corporation will at all times reserve and keep available a sufficient number of shares of Common Stock or other securities or property to provide for the conversion of all shares of each class or series of Senior Preferred Stock in accordance with the provisions of this Section 5.

(o) Payment of Taxes. The Corporation shall pay all taxes and other governmental charges (other than any income or other taxes imposed upon the profits realized by the recipient) that may be imposed in respect of the issue or delivery of shares of Common Stock or other securities or property upon conversion of shares of each class or series of Senior

Preferred Stock, including without limitation, any tax or other charge imposed in connection with any transfer involved in the issue and delivery of shares of Common Stock or other securities in a name other than that of which the shares of Senior Preferred Stock so converted were registered.

(p) Status of Converted or Redeemed Stock. Any share of Senior Preferred Stock converted, repurchased or otherwise acquired by the Corporation shall be retired and canceled and shall upon cancellation be restored to the status of authorized but unissued shares of preferred stock, subject to reissuance by the Board of Directors as shares of preferred stock of one or more other series, but not as shares of Series AA Preferred Stock or Series BB Preferred Stock.

(q) No Impairment. The Corporation shall not amend these Articles or participate in any reorganization, transfer of assets, consolidation, merger, dissolution, issue or sale of securities or any other voluntary action, for the purpose of avoiding or seeking to avoid the observance or performance of any of the terms to be observed or performed hereunder by the Corporation, but shall at all times in good faith use its best efforts, and assist in carrying out all such action as may be reasonably necessary or appropriate in order to protect the conversion rights of the holders of shares of each class or series of Senior Preferred Stock against dilution or other impairment.

(r) Common Stock. For purposes of this Section 5, the term "Common Stock" shall mean any shares of any class of the Corporation's capital stock other than Senior Preferred Stock; provided, however, that the shares of Common Stock issued or issuable upon conversion of any class or series of Senior Preferred Stock shall be shares of the Common Stock of the Corporation as constituted on the date hereof, except as otherwise expressly provided in this Section 5.

(s) Notices. All notices referred to herein, except as otherwise expressly provided, shall be made by registered or certified mail, return receipt requested, postage prepaid and shall be deemed to have been given when so mailed.

Article IV. Duration

The Corporation shall have perpetual existence.

Article V. Board of Directors

The business and affairs of the Corporation shall be managed by or under the direction of the Board of Directors, which shall exercise all powers conferred under the laws of the State of Florida. The number of directors shall be determined in accordance with the Bylaws of the Corporation. The election of directors of the Corporation may, but need not, be by ballot. At all times, more than half of the total number of directors of the Corporation shall be Independent Directors; provided, however, that any actions taken by the Board of Directors at a time when less than half of the total number of directors of the Corporation are Independent Directors shall be valid if (and only if) such actions are approved in each case by at least one Independent Director.

Article VI. Liability of Directors

To the fullest extent permitted by the Florida Business Corporation Act, as the same now exists or may hereafter be amended in a manner more favorable to directors, a director of the Corporation shall not be personally liable to the Corporation, its stockholders or any other person for monetary damages for breach of fiduciary duty as a director. If the law of the State of Florida is amended after the filing of these Articles to authorize corporate action further limiting or eliminating the personal liability of directors of the Corporation, then the liability of directors to the Corporation or its stockholders shall be limited or eliminated to the fullest extent permitted by law of the State of Florida, as so amended from time to time. Any repeal or modification of the provisions of this Article VI, either directly or by the adoption of an inconsistent provision of these Articles, shall be prospective only and shall not adversely affect any right or protection set forth herein existing in favor of a particular individual at the time of such repeal or modification.

Article VII. Indemnification

A. The Corporation shall indemnify, in the manner and to the fullest extent permitted by law, any person who was or is a party to any proceeding (other than an action by or in the right of the Corporation), by reason of the fact that he or she is or was a director, officer, employee or agent of the Corporation, or is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust, other enterprise or employee benefit plan (an "indemnitee"), against liability incurred in connection with such proceeding, including obligations to pay a judgment, settlement, penalty, fine (including an excise tax assessed with respect to any employee benefit plan), and expenses actually and reasonably incurred (including attorneys' fees) in connection with such proceeding, including any appeal thereof, if he or she acted in good faith and in a manner he or she reasonably believed to be in, or not opposed to, the best interest of the Corporation and, with respect to any criminal action or proceeding, had no reasonable cause to believe his or her conduct was unlawful.

B. The Corporation shall indemnify, in the manner and to the fullest extent permitted by law, any person who was or is a party to any proceeding by or in the right of the Corporation to procure a judgment in its favor by reason of the fact that the person is or was a director, officer, employee, or agent of the Corporation (or the estate of any such person) or is or was serving at the request of the Corporation as a director, officer, employee, or agent of another corporation, partnership, joint venture, trust, or other enterprise, against expenses and amounts paid in settlement not exceeding, in the judgment of the Board of Directors, the estimated expense of litigating the proceeding to conclusion, actually and reasonably incurred in connection with the defense or settlement of such proceeding, including any appeal thereof, if such person acted in good faith and in a manner he or she reasonably believed to be in, or not opposed to, the best interests of the Corporation, except that no indemnification shall be made under this subsection in respect of any claim, issue, or matter as to which such person shall have been adjudged to be liable unless, and only to the extent that, the court in which such proceeding was brought, or any other court of competent jurisdiction, shall determine upon application that, despite the adjudication of liability but in view of all circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which such court shall deem proper.

C. To the extent that a director, officer, employee, or agent of the Corporation has been successful on the merits or otherwise in defense of any proceeding referred to in subsection (A) or subsection (B) above, or in defense of any claim, issue, or matter therein, he or she shall be indemnified against expenses actually and reasonably incurred by him or her in connection therewith.

D. Expenses incurred by an officer or director in defending a civil or criminal proceeding may be paid by the Corporation in advance of the final disposition of such proceeding upon receipt of an undertaking by or on behalf of such director or officer to repay such amount if he or she is ultimately found not to be entitled to indemnification by the Corporation pursuant to this Section VII. Expenses incurred by other employees and agents may be paid in advance upon such terms or conditions that the Board of Directors deems appropriate.

E. The indemnification provided herein shall not be deemed to limit the right of the Corporation to indemnify any other person for any liability, including obligations to pay a judgment, settlement, penalty, fine (including any excise tax assessed with respect to any employee benefit plan), and expenses actually and reasonably incurred (including attorneys' fees), to the fullest extent permitted by law, both as to action in such person's official capacity and as to action in another capacity while holding such office.

F. Notwithstanding any provision of this Article VII to the contrary, the Corporation shall indemnify any indemnitee named above in connection with a proceeding (or part thereof) initiated by such indemnitee only if such proceeding (or part thereof) was authorized by the Board of Directors.

G. Neither any amendment nor repeal of this Article VII, nor the adoption of any provision of this Corporation's Articles of Incorporation inconsistent with this Article VII, shall eliminate or reduce the effect of this Article VII, with respect to any matter occurring, or any action or proceeding accruing or arising or that, but for this Article VII, would accrue or arise, prior to such amendment, repeal or adoption of an inconsistent provision.

Article VIII. Bylaws

Subject to the provisions of Article III, Section B.4 hereof, the Board of Directors is expressly authorized to make, alter or repeal bylaws of the Corporation.

Article IX. Corporate Books

The books of the Corporation may be kept (subject to any provision of law) outside the State of Florida at such place or places as may be designated from time to time by the Board of Directors or in the bylaws of the Corporation.

Article X. Stockholder Proposals

Advance notice of new business to be brought before any meeting of the stockholders and stockholder nominations for the election of directors shall be given in the manner and to the extent provided in the Bylaws of the Corporation.

Article XI. Special Procedures

If, at any time, the holders (the "Electing Holders") of at least sixty percent (60%) of the outstanding Common Stock (on a fully diluted basis) desire to (a) sell or transfer all of their Capital Stock to an unaffiliated purchaser or group of purchasers in a single transaction or series of transactions, or (b) cause the Corporation to accept an offer from an unaffiliated purchaser to (i) sell all or substantially all of the Corporation's assets or (ii) enter into a merger, consolidation, or other transaction resulting in the holders of the outstanding Capital Stock immediately prior to such transaction owning or controlling less than a majority of the voting securities of the continuing or surviving entity immediately following such transaction, then, in any such event, the Electing Holders shall have the right to (1) in the case of a transaction described in the immediately preceding clause (a), require each stockholder of the Corporation to sell or transfer all of its Capital Stock to such unaffiliated purchaser or group of purchasers on the same terms and conditions applicable to, and for the same type of consideration payable to, the Electing Holders, and (2) in the case of a transaction described in the immediately preceding clause (b), require each stockholder of the Corporation to approve and cause the Corporation to consummate such transaction. If the Electing Holders desire to exercise their rights under this Article XI, then they shall notify the Corporation and the Corporation's other stockholders in writing. Any such notice shall be deemed to have been duly given if delivered or mailed by certified or registered mail to the applicable stockholder of the Corporation at its address on the Corporation's records, and to the Corporation at the Corporation's principal place of business. Each stockholder of the Corporation shall take such steps and execute such documents as may be necessary, appropriate, or desirable to effectuate the provisions of this Article XI.


Article XII. Certain Restrictions

This Corporation shall not issue non-voting securities without the consent of the recipient of such non-voting securities.


[Signature Page Follows]

IN WITNESS WHEREOF, the undersigned has duly executed these Second Amended and Restated Articles of Incorporation on the 9th day of December, 2002.

ATTEST:



William P. Cox, Secretary

TRANSIT GROUP, INC.
A Florida Corporation
By: 

James G. Salmon, Chief Executive Officer